

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of Modernizing the E-rate Program for Schools and Libraries))))	WC Docket No. 13-184
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**REPLY COMMENTS BY THE IOWA DEPARTMENT OF EDUCATION
RELATED TO THE E-RATE NOTICE OF PROPOSED RULEMAKING**

Reply Comment Date: November 5, 2013

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INTRODUCTION

The Iowa Department of Education (hereafter “The Department”) submits the following reply comments in response to the FCC’s Notice of Proposed Rulemaking (NPRM) to modernize the E-rate Program for Schools and Libraries. Rather than reply to each and every question in the NPRM, the Department has selected those topics with which it finds strong agreement (or disagreement) with initial comments filed by other parties.

Connectivity Metrics

Paragraph 23

Comment on adopting the SETDA target of ensuring that schools have 100 Mbps per 1,000 users increasing to 1 Gbps per 1,000 users. SETDA also recommends that a school within a district have Wide Area Network (WAN) connectivity to other schools within their district of at least 10 Gbps per 1,000 students and staff by 2017-2018. We also seek comment on adopting that target for WAN connectivity.

Department Reply: Earlier this fall, Iowa Governor Terry Branstad and Lt. Governor Kim Reynolds announced the “Connect Every Iowan” initiative with the expressed purpose to increase the access, adoption, and use of broadband technology throughout the state of Iowa. As stated in the press release announcing the initiative, “Currently Iowa ranks 11th out of 12 Midwestern states on the TechNet State Broadband Index, behind neighboring states such as Nebraska, Minnesota, Missouri and Illinois.”¹ The focus of the initiative is intended to have a direct and positive impact on schools and libraries in the state as well as the broader citizenry. An advisory committee is scheduled to provide recommendations, including those impacting education, to the Governor’s office by December 1. To date, advisory members have discussed a target of 100 MBPS minimum connectivity to all Iowa schools. While targets have not yet been set for either connectivity to the Internet or for wide area network capacity, experiences from Iowa’s districts that own and operate their own fiber networks show that it is not unusual for them to provide WAN connectivity of 1 GBPS to elementary buildings and 4 or more GBPS to their secondary schools.

¹ <https://governor.iowa.gov/connect/>

Broadband Targets

Paragraph 24

Are the SETDA targets appropriate for all schools, or should the FCC set some other minimum levels of broadband speed necessary to meet the proposed goals, and what should those levels be?

Department Reply: In theory, the Department agrees with a variety of commenters² that any broadband targets should be set in response to the educational needs of local schools rather than an arbitrary broadband speed minimum. However, the Department also concurs that the 100 MBPS target is a reasonable “floor” for most schools based upon the innovations and cloud-based resources as noted in comments by SETDA, the Alliance for Excellent Education, and the LEAD Commission.

How much capacity do schools currently use?

Department Reply: Accurate data on capacity used by Iowa schools is not readily available. Nonetheless, it is clear from correspondence with local E-rate contacts that they are not oversubscribing to more broadband than is needed. Quite the contrary, many schools report that they either cannot get additional capacity or that the needed bandwidth is too costly.

How are schools' bandwidth needs changing, particularly in those schools that have one-to-one device initiatives?

Department Reply: As noted in the initial comments by the Department, the dramatic increase in the number of schools with 1:1 devices has grown over 20-fold in just five years. Where it was previously adequate just a few years ago to have a 5 MBPS circuit for a secondary school building is now woefully under-powered. As cited by a small district in an e-mail to the Department's E-rate coordinator, “[Our school district] is limited to 25MB by last mile service provided by our local telcos... We are definitely going to need more in the near future as we are now a 1:1 school. Ideally we need at least 50 MBPS right away.”³ The surge in 1:1 initiatives and the resulting demand for

²E.g. California Department of Education, EdLiNC, Washington State Office of Superintendent of Public Instruction

³ E-mail transmitted on Monday, October 14, 2013

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higher bandwidth has served to highlight the lack of available broadband options in many rural Iowa districts.

What percent of schools currently have 100 Mbps per 1,000 users? What percent of schools currently have 1 Gbps per 1,000 users? How quickly are schools already moving towards these targets? What percent of schools currently have fiber connectivity to the school? How much would it cost to reach these targets? What are the challenges for schools and the E-rate program in meeting these targets?

Department Reply: While the Department has no firm data on the percent of schools with current connectivity of 100 MBPS or more, the Department has no reason to dispute the results of the data collected by Connected Nation. In its initial comments, Connected Nation estimated that only 7% of Iowa's schools and 2% of Iowa's libraries have download speeds of 100 MBPS or more.⁴ Based upon state-network analysis, at least 80 to 90 districts face challenges in reaching goals of 100 MBPS or more. The primary difficulty appears to be related to the absence of service provider infrastructure in the more rural communities to meet the needs of the districts. It is certainly acknowledged by the Department that if service providers cannot make the case for a return on investment (ROI) within the communities they serve, they cannot afford to upgrade their networks to fulfill the educational demands of the school districts in their service areas. The E-rate fund, along with other funding sources such as Connect America Fund (CAF), must play a vital role in circumstances where E-rate applicants have no broadband alternatives OR no affordable/cost effective alternatives. In other words, there may be broadband options available to applicants, but at what cost? Would the E-rate fund (and the applicant) be better served by funding applicant-owned fiber connections?

Below are some quotes that were shared in e-mails from districts (names of districts are omitted but may be provided to the FCC upon request):

From a small K-6 district: "[Our district] is currently at 5 mb (DSL) and is working to move to 10 Mb with our local telco. When we first inquired about the cost of broadband circuit for 10 MB, my telco came back with a price of \$950/month. ...

⁴ Connected Nation Table 1 at page4

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it doesn't make sense for us to go with a broadband circuit when we can get a 20MB DSL connection from our telco for \$280 per month (before eRate). My frustration has been the limited amount of options in my area. We have one telco that will bid on an RFP that we submit to the public. We have a satellite connection option but unfortunately we can't get the speed we need from them either. “

From a district of 750 students: “We sought more bandwidth through [our provider] but were unable to get more than 35mb. This became a frustrating endeavor...I have been very consistent in pleading with the powers that be to provide speed/capacity and a means of financial assistance for internet service. Today's classroom requires internet connectivity and without it we (Iowa) are at a distinct disadvantage.”

From a district with 858 students: “[Our district] is limited to 25MB by last mile service provided by our local telcos ...We are definitely going to need more in the near future as we are now a 1:1 school.”

Maximizing the Cost-Effectiveness of E-rate Funds

Paragraph 43

What performance measure or measures should the FCC adopt to support the goal of maximizing the cost-effectiveness of purchases made using E-rate funds?

Should the FCC measure the value delivered to schools and libraries with support from the E-rate program by tracking the prices and speed of the broadband connections supported by the program?

Should the FCC measure an applicant's costs per-student and costs of products and services in comparison with other costs for products and services available in the marketplace?

Are there additional data the FCC would need to require from applicants to track relevant measures, or are there existing data repositories that could be used for this purpose?

Should the FCC use any of these to measure cost-effectiveness instead of, or in addition to, affordability?

Department Reply: The Department cautions that the prices and speed of available broadband connections are outside the control of the applicant community. Any efforts to “track” bandwidth costs in order to place blame on applicants for high costs of broadband must be avoided. As cited elsewhere in the Department’s initial comments and in these reply comments, costs to Iowa’s districts and schools are wide-ranging for a 45- MBPS circuit (and that bandwidth is not adequate for most schools). Some districts are able to lease a 45 MBPS circuit at a monthly rate of \$210 a month while a neighboring district must pay \$3735 a month (over 17 times as much for the same bandwidth). **It should be emphasized that this disparity in cost is through no fault of the applicant.** The Department strongly urges that any action taken by the Commission to track bandwidth costs should not point fingers at applicants nor accuse applicants of being poor negotiators with service providers.

Funding For Broadband Connections

Wide Area Networks (WANs)

Paragraph 80

Whether there are circumstances under which it will be more cost-effective for schools and libraries to build or purchase their own WAN rather than to lease a WAN? Whether there might be occasions where building or purchasing their own WAN is the only way for schools and libraries to get broadband access? If so, we seek comment on whether we should lift our prohibition on schools and libraries building or purchasing their own WANs by removing section 54.518 of our rules, or amend that section of our rules to allow schools and libraries to build or purchase their own WANs under certain circumstances. If the latter, we seek comment on the criteria we should use in determining whether to provide E-rate support to schools and libraries that purchase or build their own WANs.

Department Reply: The Department strongly agrees with comments from the Kansas Department of Education, Utah Education Network, Washington State Office of Superintendent of Public Instruction, and the Pennsylvania Association of Intermediate Units that E-rate should provide funding in situations where the building and/or purchasing of wide area networks is the most cost-effective solution for applicants. Further, the Department has learned from numerous Iowa districts that building and

ownership of a WAN is sometimes the only available solution to meet their broadband needs.

Beginning in 2010, the Department's E-rate coordinator began gathering data from districts that had elected to install their own fiber wide area networks. Based upon recently updated informal and unscientific survey results, at least 30 of Iowa's 348 districts have installed fiber networks that connect some or all the schools in their districts. Six of the districts that participated in the survey are in city locations where various municipal partners (e.g. city government, county government, higher education, K-12 districts and schools) collaborated in the fiber installation project. Three districts reported that they partnered with a local phone company or utility to trench fiber when the service provider was installing new connections. The remaining districts (21) reported that they purchased their own fiber when they were unable to obtain the bandwidth they needed from service providers (the capacity they needed was not available at any cost).

None of the districts (and the majority are quite small) reported regrets over the WAN purchase, and all emphasized that the broadband access they now have would not have been economically feasible (and in some cases impossible) without this important step. All shared that the primary consideration had been providing educational opportunities to their students and that the purchase of a WAN seemed to be the best (and sometimes only) alternative.

Phasing Down Support For Certain Services

Paragraph 90

Modifying our rules to ensure availability of the key products and services needed for high-capacity broadband connectivity to and within schools and libraries. We now seek comment on two approaches for streamlining the remainder of the ESL to focus support on high-capacity broadband.

First, we propose to phase out support for a number of specific services, including outdated services currently on the ESL, for components of voice service, and seek comment on phasing out support for services that are not used primarily for educational purposes.

Second, we seek comment on more fundamentally shifting the way we direct E-rate support to focus exclusively on high-capacity broadband connectivity to and within schools. Whether there are additional services for which we should phase out or reduce support, including traditional telephone services. We seek comment on a number of issues that will need to be addressed whichever approach we take.

Department Reply: There can be little question that affordable and high-capacity broadband is a critical resource for Iowa's districts and schools. As was stated in initial comments and reflected in comments by Education Coalition and the LEAD Commission, the importance of broadband cannot be overstated. Further, the Department emphasizes the importance of retaining videoconferencing as a priority 1 broadband service, as was pointed out by the State of Alaska. Videoconferencing service provides an important educational link to ensure that Iowa's schools and districts have access to courses not readily available in smaller districts.

Educational purposes

Paragraph 100

Whether we should make changes to the E-rate program to ensure that supported services are, at a minimum, used for the core purpose of educating students and serving library patrons. Whether we should allow a school or library to seek E-rate support for services that will be used only by school and library staff, administrators, or board members. If school and library staff use the supported services in their role as educators and information providers but the services are inaccessible to students and library patrons, does this satisfy the statutory requirement that the support be used for educational purposes? Should E-rate funds be provided if school and library staff use such services only for administrative or other purposes not directly tied to education? If funds are provided for administrative or other purposes not directly tied to education, should they have a lower priority than funds provided for the core purpose of serving students and library patrons? Should we stop providing E-rate support for services to non-instructional buildings, such as bus garages? Should we treat non-instructional buildings, such as technology centers, that support E-rate supported services? Are there some administrative functions such as parent-teacher communication that should always be considered as primarily serving an educational purpose? Even if there are services that further the educational mission of the school, is it now no longer realistic to support all of these services within our budget since funding is always limited? We invite commenters to distinguish between and among E-rate supported services when responding to these questions. We invite commenters to distinguish between and among E-rate supported services when responding to these questions. What changes to the E-rate program would be necessary, such as changes to our rules or required program certifications, if we were to limit E-rate funding to services directly available, at least in part, to students and patrons? Would placing limits on funding for services that

are not directly available to students or patrons be too difficult to monitor or audit or raise cost-allocation challenges? Commenters should be specific in their proposals.

Department Reply: The Department strongly agrees with various commenters⁵ that the current definition of Educational Purpose should stand. Sites such as school administration buildings and bus garages fulfill a vital educational purpose. Cost allocation for those facilities would provide minimal savings to the fund and any savings would be consumed by PIA labor costs in reviewing applications.

In addition, the Department strongly agrees with SETDA that the WiFi on school buses should be an E-rate eligible P1 service.

Cellular data plans and air cards

Paragraph 102

How to treat support for Internet access services provided via cellular data plans, including air cards. Should we phase out support for cellular data plans and air cards or should we instead deprioritize support for such services?

Department Reply: As previously noted in initial comments, teachers from Iowa's intermediate school districts and special schools work with students in a variety of different schools during the day. Traveling from one building to the next, these educators need ready access to cloud-based educational resources via their portable devices (e.g. tablet or laptop.) Because the schools have secure networks, these educators cannot easily access the schools' Internet and need to rely upon mobile broadband devices. The Department urges continued P1 eligibility for this service.

Modifying the Discount Matrix

Paragraph 117

Whether we should gradually increase, over time, the minimum percentage of matching funds that E-rate applicants must provide when seeking support from the E-rate program. Whether this would better serve – on a cost benefit basis – our statutory mandate to “ensure affordable access to and use of” E-rate services. Other possible changes to the discount matrix? Increasing applicants' matching requirement?

⁵ SETDA, SECA, Wisconsin DPI, California Department of Education, EdLiNC, South Dakota Department of Education and South Dakota Bureau of Information and Telecommunications

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Paragraph 119

In 2003, a USAC task force on the prevention of waste, fraud and abuse found that increasing the percentage of costs that schools and libraries pay for E-rate supported services would encourage more careful and cost-efficient purchasing of E-rate supported services and would thereby reduce the risk of waste, fraud and abuse of E-rate funds. Therefore, it recommended requiring applicants to pay at least 20 percent of the price of priority two E-rate services. We seek comment on that analysis.

Department Reply: The Department is persuaded by commenters that favor lowering the maximum discount and to have both P1 and P2 discount matrices consistent.

Comments such as those by E-Rate Central make a strong argument that applicants should pay at least 20 percent of the price of ANY E-rate supported goods and services (both P1 and P2), thereby creating a maximum discount of 80%. Having more “skin in the game” by requiring at least a 20% match will guard against waste, fraud and abuse.

Support Based On District-Wide Eligibility and Application By School District

Paragraph 126

Requiring all schools within a school district to submit applications by school district, rather than by individual school or groups of schools within the same discount, and to use the average discount rate for the entire school district rather than the weighted average for each school building. Whether all libraries located within a school district should use the school district’s discount rate when calculating their discount rate.

Paragraph 129

We propose to revise section 54.505(b) of the E-rate rules to read:

School districts shall calculate discounts on supported services described in § 54.502(b) by calculating a single discount percentage rate for the entire school district by dividing the total number of students eligible for the National School Lunch Program within the school district by the total number of students within the school district. This single discount percentage rate shall then be applied to the discount matrix to set a discount rate for the supported services purchased by all schools within the school district. We seek comment on this proposed rule. We also seek comment on whether we should define “school district” for purposes of this proposal.

Paragraph 130

Propose below to change our definition of “rural” for purposes of the E-rate program to ensure greater funding to truly rural areas by using the U.S. Department of Education’s NCES definitions. Are there any school districts for which some schools would be differently classified as “rural” or not under our current or proposed definition? Whether to apply the rural discount if any schools in a district are considered to be located in a “rural” area or if a majority of the schools in a district are considered rural. Alternatively,

should we consider partial rural discounts depending on the proportion of schools that are rural, or other approaches? The impact of this proposal on schools and libraries.

Paragraph 131

Comment on a proposal to require all schools and libraries that are part of the same school district to submit applications for priority two internal connections by school district, rather than by individual school. Amending section 54.504(a) of the E-rate rules to read:

An eligible school, library, or consortium that includes an eligible school or library seeking to receive discounts for eligible services under this subpart, shall, upon signing a contract for eligible services, submit a completed FCC Form 471 to the Administrator. All schools and libraries that are part of the same school district and seek priority two internal connections shall submit a completed FCC Form 471 to the Administrator as part of the school district in which they are located. A commitment of support is contingent upon the filing of an FCC Form 471.

We seek comment on this proposed rule.

Paragraph 132

Whether we should require schools and libraries to submit applications for priority one services by school district. Address what, if any, additional burden such proposal may place on applicants. Address what, if any, additional burden such proposal may place on applicants. For example, if the Commission retains the current priority one and priority two distinctions, an applicant could only submit two applications – one for each category. What are the advantages and disadvantages of such a requirement?

Department Reply: The Department agrees with the proposed rule changes (54.505(b) and 54.504(a)) to rely upon the district average for all E-rate P1 and P2 funding. Further, the rule should apply to all form 471 requests and not be the option of the applicant, as some commenters have proposed.

As noted in initial comments, the Department urges use of NCES to determine whether a district (and libraries located within the district) is rural or urban. NCES has already created a determination of school districts in accordance with the following codes as cited below from the NCES website:⁶

How are locale codes assigned to school districts?

A school district's locale code is not assigned on the basis of the central office address. It is derived from the locale codes of the schools in the district. If 50 percent or more of the public school students attend schools with the same locale code, that locale code is assigned to the district. For example, if 60 percent of students were enrolled in schools with a "rural - distant" locale code, and 40 percent were enrolled in schools with a "town - small" locale

⁶ http://nces.ed.gov/ccd/rural_locales.asp retrieved 9.14.2013

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code, the district would be assigned a “rural – distant” locale code. If no single locale code accounts for 50 percent of the students, then the major category (city, suburb, town, or rural) with the greatest percent of students determines the locale; the locale code assigned is the smallest or most remote subcategory for that category.

Use of these codes for the entire district eliminates the need to be concerned about new buildings. Any district determined to be “town-distant,” “town-remote,” “rural-distant or “rural-remote” by the U.S. Department of Education’s National Center for Education Statistics (NCES) urban-centric locale code should be considered rural for purposes of calculating its E-rate discount level. The Department favors using these codes as proposed for E-rate purposes.

Setting Budgets or Limits

Paragraph 135

Whether we should impose a per-student or per-building budget, or similar limits, on funding for schools and libraries? Funds for Learning, an E-rate consultant that has analyzed USAC’s data, has argued that appropriately-structured budgets on a per-student or per-building basis could lead to more equitable and predictable distribution of E-rate funds by limiting the funding that is allocated to a small number of high-spending applicants

Paragraph 138

Whether we should consider a higher and more flexible per-student limit, per-building limit or alternative forms of limits or budget on an applicant’s E-rate funding. Where we might set the limit? Should any limits we adopt include adjustments to reflect the higher costs faced by applicants in more expensive-to-serve locations, such as Tribal lands? Should any such adjustment be based on observed current costs, some relatively simple and reliable proxies for costs, or some other measure? Should limits be set relatively high, so as to serve as a check on excessive funding requests and help prevent a few applicants from securing so much funding that other disadvantaged applicants are crowded out, while leaving most applicants unaffected? Alternatively, should limits be set lower to more aggressively spread funding annually to disadvantaged applicants that have rarely, if ever, received funding for internal connections?

Paragraph 139-142

We invite commenters to propose limits for either total annual funding, pre-discount requests, or for priority one and priority two purchases separately and ask commenters to explain their rationale for the limits that they recommend. On Funds for Learning’s most recent proposal calling for a per-student budget calculation. We note that we have sought comment on prioritizing broadband connectivity to and within schools and libraries, which could, among other changes, raise the per student cost of supported

services for those schools and libraries seeking support for large installation and construction costs. How do we implement this prioritization of broadband connectivity while also instituting any of the potential funding limits? Should we consider excluding some costs from the limit, such as non-recurring installation and construction costs? Should we instead impose some other cap on costs related to the higher priority services?

Whether there should be a minimum amount of E-rate support for which a school, library, or school district is eligible, irrespective of the number of students, and what it should be? If a minimum amount is established, how should we compute that minimum? Should we provide for different limits depending on the number of students at a school or in a school district? If so, what should those limits be? We also repeat our question about whether any limit should permit additional funding for rural applicants, either by establishing a higher limit for rural applicants or through some other mechanism.

Department Reply: The Department strongly disagrees with the proposal from Funds for Learning to use a per pupil budget calculation for E-rate purposes. The FFL initial comments did not adequately address two issues that are of concern to the Department. First, as pointed out by commenters such as E-Rate Central, Utah Education Network, the South Dakota Department of Education and South Dakota Bureau of Information and Telecommunications, and SECA, the per-pupil allocation does not adequately take into consideration the various consortia that serve the districts in our state. Most Iowa districts are included in two different consortia form 471 applications (one state-level and one regional) as well as file their own form 471 application. Providing for state-level consortium funding (as proposed by FFL) but not accounting for the regional consortium allocation is both unfair and unworkable. Second, one of the fundamental cornerstones of the E-rate program has been to provide funding in direct response to the needs and costs of eligible services, as noted by EdLiNC in initial comments. Using a per-pupil allocation would be in direct opposition to this fundamental principle. The Department pointed out initial comments that the district with a monthly cost of \$210 monthly 45 MBPS circuit have the luxury of spending the per student allocation on other E-rate eligible services and equipment while the district with \$3735 per month 45 MBPS circuit would likely spend its entire per student (or per building) allotment on circuit costs alone with no funds remaining for other E-rate eligible services and equipment.

Paragraph 168

On how to minimize any overlap in funding for broadband, while extending the reach of both programs to support the deployment and adoption of broadband by E-rate applicants? How can we best ensure and encourage the two support mechanisms to achieve our universal service objectives, including the goals identified herein? Should we consider what portion of deployment should high-cost funding support and what portion should E-rate support? Would it be useful to specify that certain costs – such as construction charges to extend fiber to the school or library property line – are funded by high cost, and other costs – such as recurring charges for broadband service – are funded by E-rate? What measures should we adopt to ensure that there is no duplicative funding of the same facilities or services from the two programs?

Department Reply: We agree that High Cost (CAF) funding should be utilized where appropriate. We also believe that connectivity for students at home should not be sourced from the E-rate program and that those disadvantaged should be able to seek assistance from other USF programs.

Increasing Consortium Purchasing

Paragraph 180

We therefore seek comment on whether we should adopt additional incentives or mechanisms to facilitate the use of consortium purchasing in the E-rate program. In particular, we are interested in ways that consortium purchasing can drive down prices and otherwise benefit applicants and the E-rate fund.

Paragraph 181

We also seek comment on whether there are legal, geographic or other barriers preventing certain schools and libraries from taking advantage of consortium purchasing. Are there ways in which our rules prevent or discourage participation by applicants who might otherwise join a consortium? We invite commenters to identify specific amendments we can make to our rules to ensure that applicants can join or form consortia.

Department Reply: Commenters from several states⁷ and professional organizations described the value that consortia buying has for applicants (and direct benefits for the E-rate fund). The Department takes this opportunity to describe how consortia filing has benefited Iowa's districts, schools, and public libraries.

⁷ Alabama State Department of Education, Pennsylvania Association of Intermediate Units, Wisconsin Department of Public Instruction, Alliance for Excellent Education, EdLiNC. Florida Department of Management Services Division of Telecommunications, Kentucky Department of Education, Nebraska State OCIO, The Quilt, South Carolina K-12 Technology Initiative, South Dakota Department of Education and South Dakota Bureau of Information and Telecommunications, Texas Education Telecommunications Network, Utah Education Network
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The majority of Iowa districts participate in two types of consortia filing. The first is through the Department's filing for 45 MBPS digital data circuits and videoconferencing services. The state-level bidding and technical review ensure that the most affordable options are provided to the consortia members. Second, the nine intermediate agencies in the state file consortia applications for Internet aggregation on behalf of the districts and schools in their respective regions. The current service provider for the Internet aggregation service partnered with the state's Regent universities to acquire wholesale Internet. The combined purchasing allowed for lower cost Internet access, a savings that was passed along to the consortia members (and therefore, required lower cost support from the E-rate fund as well).

Broadband Planning and Use

Paragraph 217

Measures E-rate applicants should take in order to ensure they are carefully assessing their need for and readiness to use high-capacity broadband. Should we require schools and libraries seeking support for high-capacity broadband to undertake a formal review and assessment of their broadband needs – both to the premises and within the premises? Such an assessment could not only help applicants determine their broadband connectivity needs but also encourage efficient and cost-effective purchasing decisions. Should we condition receipt of E-rate funds on certain criteria for the broadband assessments and if so, what should those criteria be? For example, should we require schools to plan for providing a device to every student or for a device to a small group of students? Should we require schools and libraries to conduct professional development sufficient to ensure that their staffs have the knowledge and skills to take advantage of high-capacity broadband as well as the devices and applications? Should applicants be required to demonstrate that they have specific plans for using the bandwidth? Who is in the best position to evaluate and, if necessary, approve these assessments, and help schools close any gaps? What should be the consequences be if an applicant conducts inadequate needs assessment and planning, and what resources could be made available to help them improve Schools and Libraries Sixth Report and Order?

Department Reply: The Department rejects the proposal in paragraph 217 as an unnecessary and meaningless process which will not result in applicants making any better E-rate purchasing decisions. Districts and schools are not needlessly requesting funding for more broadband than they need. Iowa districts and schools that aggregate Internet through their intermediate agencies (part of regional consortia) have assistance

in evaluating their bandwidth usage and future growth needs. Additional needs assessment requirements should not be required and implemented.

Paragraph 218

Lessons learned from our current and previous technology plan requirements and whether we should consider any elements of those requirements if we implement a broadband assessment requirement. In particular, how can we make such assessment as simple and objective as possible? Is an objective checklist or scorecard approach for school planning and readiness feasible?

Paragraph 219

Quantifying the burdens schools and libraries face when completing current technology plans in compliance with federal requirements and the approval process. If we eliminate the technology plan requirement, and do not otherwise require E-rate applicants to assess their broadband needs, would schools and libraries continue to develop technology plans, or their equivalents, and if so how might they differ from current plans developed in order to access priority two funding?

Department Reply: No new technology plan requirements, including a broadband assessment should be implemented. Technology planning should be a state responsibility and not part of the E-rate program.

The Children's Internet Protection Act

Paragraph 271

Input from interested parties about the measures schools and libraries are taking and need to take to comply with CIPA when they allow third-party devices to connect to their E-rate supported networks. What steps schools and libraries are taking and must take to ensure that they are not violating CIPA when they provide employees, students and library patrons with portable, Internet-enabled devices that can be used off-premises?

Covered Devices

Paragraph 273

We seek comment on what devices are covered by CIPA. Whether the language "computers with Internet access," as used in the context of CIPA, includes all devices used to access the Internet, including all portable devices such as laptops and netbooks with wired Internet access, with Wi-Fi capability, or with wireless data or air cards; cellular phones or "smartphones" capable of accessing the Internet; and Internet-enabled e-readers and tablets. On limiting principles we should apply to our treatment of what constitutes a computer with Internet access for CIPA purposes, and how those limiting principles relate to the statutory language and goals of CIPA. Should we consider as a limiting principle the language in CIPA that requires the operation of a technology protection measure that provides protection against access to "visual

depictions” that are obscene, child pornography, or harmful to minors? Specifically, does the use of “visual depictions” in CIPA mandate that in order to fall within CIPA, the computers with Internet access in question must at least provide a screen, monitor, or other way to view the prohibited material?

We also invite commenters to recommend specific changes to our rules that would clarify this issue. For example, should we include a definition of “computers with Internet access” in our CIPA-related rules, and what should that definition be?

Paragraph 274

Whether the phrases “having computers with Internet access” and “with respect to any of its computers with Internet access” and other similar language in the statute means that schools and libraries are required to comply with CIPA only with regard to those computers that they own or control. Does this interpretation fulfill the intended purpose of CIPA? We also seek comment on whether we should amend our CIPA-related rules to reflect this reading of the statute, and if so how should we amend them. Whether CIPA should be interpreted more broadly to be focused on protecting children from harmful online content on any device, and therefore require CIPA compliance with respect to any computer that is accessing the Internet using E-rate supported Internet access or internal connections, regardless of the ownership or control of the device used to access such content.

Off-Campus Use

Paragraph 275

Whether CIPA requirements extend to school or library computers taken off-campus and used with outside networks that are not supported by E-rate. If we find that CIPA requirements do not apply to computers with Internet access when used with networks that are not supported with E-rate funds, how should we address instances where school or library computers are used to access the Internet using a service that is supported for on-campus use, but not for off-campus use? For example, if a student uses a tablet with an Internet access data plan, the school could seek E-rate support for the portion of the cost of the data plan used on-campus, but not for the portion used off-campus. Should the CIPA requirements only apply when the computer is used on campus, because the school is not seeking E-rate support for the off-campus portion of the cost of the data plan? We also seek comment on whether our existing CIPA-related rules need to be amended to cover these off-campus use situations. We request that commenters be as specific as possible when recommending amendments to our rules.

Department Reply: Initial comments filed by the Wisconsin DPI, Utah Education Network, and SECA correctly defined the CIPA requirements, in the opinion of the Department. It was noted that several commenters appeared to confuse “best practice” policies that should be implemented locally with a strict interpretation of CIPA. The Department stands by its initial comments regarding CIPA and repeats it here for emphasis:

(a). CIPA applies to E-rate supported Internet access and/or internal connections. (b). CIPA does not apply to Internet access that is not E-rate supported. (c). CIPA applies to school-owned devices used on campus to connect to E-rate supported Internet. (d). CIPA does not apply to situations where school-owned devices are used off-campus to access Internet outside the school (i.e. there's no E-rate supported Internet involved). (e). CIPA does not apply if a student-owned device is brought to school AND the student connects to the E-rate supported Internet. (f). CIPA does not apply if a student-owned device is brought to school AND the student uses his/her own built-in wireless access (there's no E-rate supported Internet involved).

Identifying Rural Schools and Libraries

Paragraph 276

We propose to modernize our definition of “rural area” to make it more relevant and useable for schools and libraries seeking to get the benefit of the additional discounts for rural schools and libraries.

In the E-rate Broadband NPRM, we proposed that any school or library that is within a territory that is classified as “town-distant,” “town-remote,” “rural-distant,” or “rural-remote” by the U.S. Department of Education’s National Center for Education Statistics (NCES) urban-centric locale code be considered rural for purposes of calculating its E-rate discount level.

Paragraph 277

We seek to refresh the record on that proposal. The NCES codes could be a reliable indicator of rural areas for the E-rate, because the Department of Education’s definition is specifically targeted to schools, pinpoint more precisely whether a school is located in a rural area, and is readily available through the Department of Education’s website which has the coding system broken down by state. Therefore we seek comment on changing our rules to read as follows:

§ 54.505 Discounts.

(a) * * *(b) * * *

(1) * * *

(2) * * *

(3) The Administrator shall classify schools and libraries as “urban” or “rural” based on location in an urban or rural area, according to the following designations.

- (i) Schools and libraries whose locale code is city, suburb, town-fringe, or rural-fringe, as measured by the U.S. Department of Education's National Center for Education Statistics, shall be designated as urban.
- (ii) Schools and libraries whose locale code is town-distant, town-remote, rural-distant, or rural-remote, as measured by the U.S. Department of Education's National Center for Education Statistics, shall be designated as rural.

Paragraph 278

Because NCES codes are not assigned immediately, it is possible that not every school that is part of an E-rate application will have a code or classification. If we adopt the proposed rule above, how should we handle such schools?

Department Reply: As noted in initial comments and previously in these reply comments, the Department urges use of NCES to determine whether a district (and any library located within the district boundaries) is rural or urban. NCES has created a determination of school districts in accordance with the following codes.⁸ Use of these codes for the entire district eliminates the need to be concerned about new buildings. (Use of district averages on form 470, block 4, would render moot any concern about new buildings). Any district determined to be “town-distant,” “town-remote,” “rural-distant or “rural-remote” by the U.S. Department of Education's National Center for Education Statistics (NCES) urban-centric locale code should be considered rural for purposes of calculating its E-rate discount level. The Department favors using these codes as proposed for E-rate purposes.

Additional Measures to Prevent Waste, Fraud and Abuse

Paragraph 294

We invite commenters to identify and discuss ways that the Commission can continue to combat waste, fraud and abuse in the E-rate program. We seek to identify additional policies and procedures that we can put in place to protect against waste, fraud, and abuse; to identify waste fraud and abuse; and to aggressively pursue actions against those engaged in waste fraud and abuse.

Department Reply: SECA has previously advised the Commission that a modest funding of an E-rate coordinator position in each state guards against issues of waste, fraud and abuse. The Department agrees with the SECA suggestion.

⁸ http://nces.ed.gov/ccd/rural_locales.asp retrieved 9.14.2013

Iowa Department of Education – NPRM Reply Comments, WC Docket No.13-184. November 2013.

Wireless Community Hotspots

Paragraph 319

We next inquire whether we should continue to increase the reach of E-rate supported services.

Whether we should permit schools to provide wireless hotspots to surrounding communities using E-rate supported services.

Paragraph 320

Whether we should permit schools to provide wireless hotspots to surrounding communities using E-rate supported services. We seek public input on the prospect of permitting wireless hotspots for communities.

Paragraph 321

Whether we should implement other changes to the E-rate program to accommodate the use of wireless hotspots? Are there programmatic changes we should make to ensure applicants are able to deploy such wireless hotspots? Do we need to further revise the educational purposes standard if we permit off-premises access for community use

Paragraph 322

The Commission adopted several conditions for allowing community use of schools' E-rate supported services during non-school hours. Specifically, (1) schools are not permitted to request funding for more services than are necessary for educational purposes and may not seek funding for more services or equipment than necessary to serve its current school or library population; (2) the use of E-rate funded services after hours must comply with Commission rules, including CIPA; and (3) consistent with the Act, the discounted services or network capacity may not be "sold, resold, or transferred by such user in consideration for money or any other thing of value."

Should we impose the same conditions with respect to off-site access via wireless hotspots? Whether there are any unique circumstances in the context of off-site use that would reasonably change these conditions. Whether there are any additional conditions to guard against waste, fraud, and abuse that should be imposed on E-rate applicants that use E-rate funded services for wireless community use?

Paragraph 323

What other conditions we should impose on allowing community access to schools' E-rate supported services via community hot spots. Our rules allowing for community use in schools limits that use to non-school hours..Should we impose the same limitation here? Is there a justification for such a limitation in this case where wireless service will be accessible at all hours and, unlike the community use implemented in the Schools and Libraries Sixth Report and Order, does not require use of the applicant's physical property? Are there reasons to preclude access to the wireless service during school hours? Would permitting such wireless access to the community during school hours be detrimental to the operations of the school? For example, could testing or other

school operations reliant on broadband be negatively affected by community access during school hours? If so, are there any measures applicants could take to reduce the impact of the community access on the applicant? Next, should we impose any geographic limitations on the scope of offsite Internet access? What restrictions, if any, should be placed on service providers in the communities that donate equipment, services or funding to help with the creation or expansion of the Internet access points to ensure no violations of the Commission's gift rules occur? The adequacy of security measures that would be needed to guard against network security breaches. What other issues are raised by this idea?

Department Reply: On the surface, the concept of allowing E-rate supported districts and schools to "share" their Internet access with the community after hours through wireless hotspots is appealing. Prior to allowing such a policy to move forward, the Department agrees with the comments filed by E-Rate Central that a limited pilot should be implemented so that possible unintended challenges can be identified and addressed.

Procedures for National Emergencies

Background

Paragraph 324-329

We propose to adopt rules requiring USAC to follow specific procedures in the aftermath of a natural disaster or other emergency in order to ensure that USAC can efficiently assist affected schools and libraries in obtaining immediate relief. We now propose to incorporate disaster relief mechanisms into our rules in order to regularize the response to natural disasters and other emergencies.

Paragraph 325

We propose to apply relief procedures to schools and libraries that have been directly affected by any event determined by the President of the United States to be either an "Emergency" or a "Major Disaster," as defined by the Federal Emergency Management Agency (FEMA); which has caused severe structural damage and displaced student and patron populations, and also to those schools and libraries indirectly affected by a Major Disaster who absorb displaced populations. How to properly limit any new rule to ensure it only applies to schools and libraries in communities that have suffered major disruptions? How to measure the amount of disruption to an applicant? Who should make the final determination that there has been enough of a disruption to warrant relief?

Paragraph 326

What particular relief procedures should we adopt? Propose to delegate authority to the Bureau to extend Commission deadlines for filing documents, and to direct USAC to do the same with respect to its procedures. Propose to excuse the record retention

requirement for applicants whose records are destroyed in an Emergency or Major Disaster and cannot be recovered or recreated, although we propose to require that applicants whose records were destroyed document the loss of their records.

Paragraph 327

Allowing USAC to initiate a special filing window upon the declaration of a Major Disaster or Emergency for sixty days to allow applicants directly and indirectly affected to apply for E-rate eligible services and products. Propose to exempt affected applicants from the FCC Form 470 filing requirement and the 28-day waiting period so long as such applicants comply with state and local bidding requirements. We propose to allow affected applicants to “restart the clock” for the purposes of calculating compliance with the “two-in-five” rule for priority two services and excusing them from the requirement that substituted services or products have the same functionality as the services they are replacing.

Paragraph 328

We propose to require affected applicants to make certain certifications on their emergency relief forms to USAC. Propose to require applicants to certify that they incurred substantial structural damage as a result of the Major Disaster and/or Emergency and that the services and products sought in their applications will be solely used to restore the network to the functional equivalent of the pre-Major Disaster or Emergency degree of functionality and that other resources are not available for restoration. Propose to require applicants to certify that any alternative funding in excess of the cost for products or services requested on their applications will be returned to the federal Universal Service Fund. To the extent that applicants are handling increased populations, those applicants shall certify that there are more than a *de minimis* number of Major Disaster or Emergency victims and the applicant experience and associated increase in the demand for E-rate eligible services and/or products. To the extent that applicants are handling increased populations, those applicants shall certify that there are more than a *de minimis* number of Major Disaster or Emergency victims and the applicant experience and associated increase in the demand for E-rate eligible services and/or products.

Paragraph 329

Whether there are other policies and rules that should govern circumstances in which schools and libraries are faced with an Emergency or Major Disaster.

Department Reply: The Department appreciates and agrees with the comments from SECA, ALA, the West Virginia Department of Education, and E-Rate Central regarding emergency relief processes. Natural disasters can occur in any part of the country and at any time. The fact that such a calamity may be widespread as in the case of Hurricane Katrina or very localized as in the case of the Iowa flood of 2008 should not diminish the fact that state and/or community resources were stretched beyond their

limits and schools and libraries (and the families they serve) were displaced. The Department also wishes to emphasize that long after the disaster leaves the national headlines, recovery continues on. (In the case of Cedar Rapids, the Downtown Library had to be relocated outside the flood plain and construction was completed in late summer 2013, more than five years after flood waters destroyed the facility.)

In particular, the following procedures advocated by SECA closely echo the initial comments by the Department:

- *The procedures for providing relief from natural disasters should be invoked whenever a Presidential Disaster Declaration is made, for the schools and libraries located in the area included within the Declaration; Identify a lead agency in the impacted state that will agree to examine affected facilities and to certify that E-rate eligible damage and/or destruction occurred;*
- *Require affected applicants to certify that the services and products on this application will be solely used to restore the network to the same pre-disaster degree of functionality; (The Department wishes to take exception with this statement as explained below*).*
- *Require affected applicants to certify that any duplicate funding (i.e. insurance, FEMA, community resources) in excess of 90% of the cost for products or services requested on this application will be returned to the Universal Service Fund;*
- *Provide flexibility and rule waivers to allow applicants to dispose of equipment, obtain service substitutions to redirect funding where it is needed, allow transfer of services and equipment to other buildings, recognize that students may be transferred to other buildings;*
- *Waive documentation retention requirements for affected applicants;*
- *As noted above, the period of time for using the E-rate funding for disaster recovery should be extended to accommodate the time frame of the reconstruction efforts.*

- *The FCC should also ensure, if it has not done so already, to appoint a liaison with the Federal Emergency Management Agency who is familiar with E-rate and who can assist applicants.*
- *If a state or territory without a State E-rate Coordinator (or whose coordinator was taxed with other responsibilities) or if any state or territory felt it would be beneficial, SECA members with experience concerning E-rate disaster relief efforts would be happy to assist other states in their time of need.*

The Department also finds strong merit in the comments from ALA regarding the importance of public libraries following natural disasters and the need to allow increased services such as additional Internet capacity to accommodate displaced citizens and students. And as pointed out by E-Rate Central, rules regarding disposal of E-rate funded equipment and the need for increased mid-year bandwidth in schools need to be relaxed in the case of natural disasters.

*The rules should allow an applicant to purchase current state-of-the-art/comparable E-rate eligible equipment rather than requiring the applicant to purchase old technology.

Conclusion

Due to the large number of proposals and issues in the NRPM, the Department recommends that a more narrow and defined NPRM with proposed rule language be issued in upcoming months so that applicants and service providers alike may weigh in on changes in the rules.

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Iowa Department of Education – NPRM Reply Comments, WC Docket No.13-184. November 2013.